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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,056	03/31/2004	Maria Dalko	239466US0	4868
22850 7590 12/19/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER BLAND, LAYLA D	
			ART UNIT	PAPER NUMBER
			1623	
			NOTIFICATION DATE	DELIVERY MODE
			12/19/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

Application No.

10/813,056

Applicant(s)

DALKO ET AL.

Examiner

LAYLA BLAND

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 5-9, 12-24 is/are pending in the application.
- 4a) Of the above claim(s) 8, 12-15 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-7, 9, 16, 18, 19 is/are rejected.
- 7) ☒ Claim(s) 1, 20-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                                  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

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### DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 29, 2008 has been entered.

This Office Action is in response to Applicant's request for continued examination (RCE) filed March 28, 2008, amendment and response to the Final Office Action (mailed November 30, 2007), filed February 29, 2008, wherein claims 1, 5, 6, 10, were amended, claims 2-4 were canceled, and claim 21 was newly submitted, and supplemental response filed April 22, 2008, wherein claim 1 was amended, claims 10 and 11 were canceled, and claims 22-24 were newly submitted.

Claims 1, 5-9, and 12-24 are currently pending. Claims 8 and 12-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Claims 1, 5-7, 9, 16, and 18-24 are examined on the merits herein.

In view of the cancellation of claims 2-4, 10 and 11, all rejections made with respect to those claims in the previous office action are withdrawn.

In view of Applicant's amendment submitted February 29, 2008 and supplemental response submitted April 22, 2008, the rejection of claims 1, 5, and

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18 under 35 USC 112, first paragraph, for failing to comply with the written description requirement, is withdrawn. The scope of the claims has been narrowed.

In view of Applicant's amendment submitted February 29, 2008 and supplemental response submitted April 22, 2008, the rejection of claims 1, 5, and 18-20 under 35 USC 112, first paragraph, for not being enabled for the full scope of the claims, is withdrawn. The scope of the claims has been narrowed.

In view of Applicant's amendment submitted February 29, 2008 and supplemental response submitted April 22, 2008, the rejection of claims 1 and 18-20 under 35 USC 112, second paragraph, for being indefinite, is withdrawn.

In view of Applicant's amendment submitted February 29, 2008 and supplemental response submitted April 22, 2008, the rejection of claims 5-7, 9, and 16 under 35 USC 112, second paragraph, for lacking antecedent basis, is withdrawn.

In view of Applicant's amendment submitted February 29, 2008 and supplemental response submitted April 22, 2008, the rejection of claims 18 and 19 under 35 USC 112, second paragraph, for lacking antecedent basis, is withdrawn.

In view of Applicant's amendment submitted February 29, 2008, the rejection of claim 1 under 35 USC 102(b) as being anticipated by Bates et al. is withdrawn. As amended, the claim requires that  $m$  is an integer equal to 0, 3, or 4. Bates et al. does not teach this limitation and thus the claim is no longer anticipated.

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In view of Applicant's amendment submitted April 22, 2008, the rejection of claims 1, 5-7, 9, 16, 18, and 19 under 35 USC 102(b) as being anticipated by Wulff et al. is withdrawn. As currently amended, claim 1 requires the compound to be present in an amount ranging from 0.1 to 6% by weight with respect to the total weight of the composition. Bates et al. does not teach this limitation and thus the claim is no longer anticipated.

In view of Applicant's amendment submitted February 29, 2008, the rejection of claim 1 under 35 USC 102(b) as being anticipated by Kametani et al. is withdrawn. As amended, the claim requires that X and Y are  $\text{NH}_2$ ,  $\text{NHCH}_3$ , or OH. Bates et al. does not teach this limitation and thus the claim is no longer anticipated.

### ***Claim Objections***

Claim 1 (and dependent claims) and claim 18 are drawn to a composition comprising a compound of formula (I), wherein  $\text{R}_2$  can be "glycoside." As set forth in the restriction requirement mailed January 23, 2007 and the non-final office action mailed April 18, 2007, the claims were restricted to monosaccharides. Thus, when  $\text{R}_2$  is "glycoside," the claims are drawn to non-elected subject matter.

Claims 5 and 6 are drawn to a composition comprising a compound of formula (II), wherein S can be in furanose form. As set forth in the restriction requirement mailed January 23, 2007 and the non-final office action mailed April 18, 2007, the claims were restricted to monosaccharides in pyranose form.

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Thus, when S is in furanose form, the claims are drawn to non-elected subject matter.

Claim 16 is drawn to the composition of claim 6, wherein S can be L-arabinose. L-arabinose is a furanose. As set forth in the restriction requirement mailed January 23, 2007 and the non-final office action mailed April 18, 2007, the claims were restricted to monosaccharides in pyranose form. Thus, when S is L-arabinose, the claim is drawn to non-elected subject matter.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-7, 9, 16, 18, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 and 6 (and dependent claims) are drawn to the composition according to claim 1, and wherein S represents a monosaccharide in pyranose and/or furanose form. The compound of claim 1, wherein n is 1, is in pyranose form. There is insufficient basis for the limitation "furanose" in claims 5 and 6.

Claims 18 and 19 recite the limitation "R<sub>2</sub> is selected from the group consisting of...and mixtures thereof." One substituent cannot be a mixture of hydroxyl, hydroxymethyl, methyl, etc. A recitation that "each R<sub>2</sub> group is independently selected from the group consisting of..." as in claim 1, would be appropriate.

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***Allowable Subject Matter***

Claims 1, 5-7, 9, 16, and 18-24 would be allowable if rewritten or amended to remove non-elected subject matter and to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

It is noted that "preventing or fading out the signs of aging" in withdrawn claim 13 would be rejected under 35 USC 112, first paragraph, if rejoined. Amendment of the claim language to "treatment of the signs of ageing," as found on page 5 of the specification, is suggested.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAYLA BLAND whose telephone number is (571)272-9572. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anna Jiang can be reached on (571) 272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Layla Bland/  
Examiner, Art Unit 1623

/Shaojia Anna Jiang, Ph.D./  
Supervisory Patent Examiner, Art Unit 1623